

IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

IN RE: **GENERIC DOCKET**  
**ADDRESSING RURAL UNIVERSAL**  
**SERVICE**

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) DOCKET NO. 00-00523  
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THRESHOLD ISSUES

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BRIEF OF THE ATTORNEY GENERAL ON THE THRESHOLD ISSUES

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Comes Paul G. Summers, the Attorney General & Reporter, through the Consumer Advocate and Protection Division of the Office of Attorney General, and files this brief in the public interest regarding the Threshold Issues<sup>1</sup> identified during the Pre-Hearing Conference held on October 31, 2000 and states the following:

**THRESHOLD ISSUES**

**Issue 1(a): Is a universal service fund needed at this time for areas served by rural carriers? If not, when will a fund be needed?**

Yes, a universal service fund is needed effective January 1, 2001. Based on the filings by The Coalition of Small LECs and Cooperatives ("Coalition") and by BellSouth, termination of the existing intraLATA toll arrangements will put additional pressure on existing local service rates for rural carriers. This pressure is manifested in two ways, (1) continued maintenance of existing and future plant additions due to normal growth and (2) provision of advanced services. Although a universal service fund is needed, considerable differences remain as to the size of the fund. The Coalition puts the price tag at approximately \$15 million, while BellSouth contends

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<sup>1</sup> The Preliminary Issues are addressed in the testimony of Terry Buckner, filed separately.

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that the revenue shortfall will be only \$3.7 million. BellSouth's filed responses state that the Coalition members will receive and charge for terminating access. The rate per terminating minute of use has not been determined. Consequently, the net revenues to be received by the Coalition members cannot be accurately calculated.

**Issue 1(b): Should the current earnings of the rural carrier be considered when determining the need and or size of a universal service fund? If so, how?**

No, typically the origination of universal service funds on the national and international landscape focus on making the cost of provision and maintenance of telephone service more affordable to individual users. While the existing earnings of a rural carrier may be sustained, its relatively low penetration and subscription levels could erode due to the lack of universal service funding. As an example, BellSouth's intrastate earnings in Tennessee are quite healthy, but the penetration level by county varied from a high of 95% in Montgomery County to a low of 81% in Hancock County (per the TRA Report, "Tennessee's Digital Divide"). Although the data used to prepare the report is stale (1990), it highlights the problem that penetration level is much more affected by location than by the carriers' earnings.

**Issue 2(a): Must a rural carrier waive its rural exemption prior to receiving funds from a Rural Universal Service Fund?**

No. In T.C.A. §65-5-207(c), alternative universal support should be created to "protect consumer welfare (and) be fair to all telecommunication service providers." There is no statutory language compelling a rural carrier to waive its rural exemption to receive universal support.

**Issue 2(b): Must a rural carrier provide unbundled network elements prior to receiving from a Rural Universal Service Fund?**

No, while unbundling is important to foster local competition, withholding the funding pending unbundling punishes the consumers in rural Tennessee. The original deployment of dial-tone service in Tennessee over fifty years ago highlights the unattractiveness of rural areas. Large public investor owned utilities sought the most economically valuable service areas, primarily urban, while government sought to provide the rural areas with affordable service.

Respectfully submitted,

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Certificate of Service

I hereby certify that a true and correct copy of the Petition to Intervene was served on parties below via U.S. Mail, postage prepaid, this November 14, 2000.

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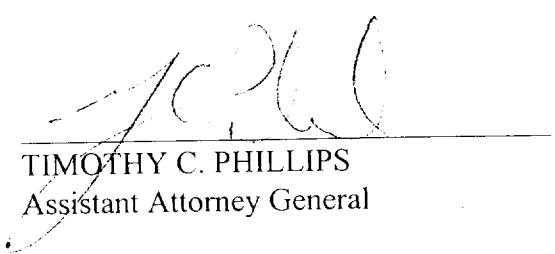
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